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 3 District of Nevada  
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 14 **UNITED STATES DISTRICT COURT**  
 15 **DISTRICT OF NEVADA**

16 UNITED STATES OF AMERICA,

17 2:20-CR-286-JCM-NJK

18 Plaintiff,

19 **United States of America's Motion for an**  
 20 **Interlocutory Order of Sale of the 2018**  
 21 **Mercedes Benz G63 AMG and Order**

22 KAREN CHAPON,  
 23 aka "Karen Hannafious,"

24 Defendant.

25 The United States moves this Court to issue an Order for an Interlocutory Sale of the  
 26 gray 2018 Mercedes Benz G63 AMG sports utility vehicle held in the name of Karen  
 1 Chapon, aka "Karen Hannafious,"(Chapon), VIN WDCYC7DH6JX291626 (2018  
 2 Mercedes) listed in the Criminal Indictment (ECF No. 22), authorizing the United States  
 3 Marshals Service (USMS) to sell the 2018 Mercedes through one of its approved methods.

4 The grounds for granting the Order for an Interlocutory Sale of the 2018 Mercedes  
 5 are as follows. First, the 2018 Mercedes continues to deteriorate pending the trial of  
 6 Chapon. Second, the value of the 2018 Mercedes continues to depreciate. Third, the storage  
 7 costs and other maintenance costs of the 2018 Mercedes will continue to accrue against its  
 8 value. Fourth, the sooner the 2018 Mercedes is sold, the more net sale proceeds will exist.  
 9 Fifth, a lien is accruing interest on the unpaid vehicle loan. Sixth, this Court is authorized to  
 10 approve interlocutory sales.

11 This Motion is made and is based on the papers and pleadings on file herein and the  
 12 attached Memorandum of Points and Authorities, and the attached Exhibit.

## MEMORANDUM OF POINTS AND AUTHORITIES

## **I. STATEMENT OF THE CASE**

## A. Procedural History

On October 21, 2020, the Grand Jury returned a Seven-Count Criminal Indictment (Indictment) (ECF No. 22), charging Chapon in Counts One through Four with bank fraud in violation of 18 U.S.C. § 1344; in Counts Five and Six with false statement to a financial institution in violation of 18 U.S.C. § 1014; and in Count Seven with unlawful money transaction in violation of 18 U.S.C. § 1957 and alleging forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A) with 28 U.S.C. § 2461(c); 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c); 18 U.S.C. § 982(a)(1); 18 U.S.C. 982(a)(2)(A); and 21 U.S.C. § 853(p).

This Court scheduled the jury trial for December 14, 2020 (ECF No. 26). Chapon requested to continue the trial to have more time to conduct an investigation in this case, and this Court granted it, scheduling the jury trial for May 17, 2021 (ECF Nos. 32, 33).

## B. Statement of Facts

On or about June 5, 2020, the defendant bought the 2018 Mercedes with a down payment \$49,987.73, plus financing. ECF No. 22; Exhibit (Ex.) 1, Declaration of Thomas Lydiksen, Special Agent, FBI, attached hereto and incorporated herein by reference as if fully set forth herein. Chapon failed to make any car payments towards the vehicle. Ex. 1.

The Federal Bureau of Investigation (FBI) seized the property on August 12, 2020, with a civil forfeiture search and seizure warrant. On September 8, 2020, the USMS took custody of the 2018 Mercedes, and it began to accrue storage fees. The cost to the USMS to keep the 2018 Mercedes is expensive. As of December 2020, the amount due to the lienholder increased to \$67,420.89. Ex. 1. The storage and maintenance fees will continue to accrue, and the 2018 Mercedes's costs and expenses will continue to increase.

At the time of seizure, the 2018 Mercedes value was \$124,900. As of February 9, 2021, the vehicle's value was \$107,600. Ex. 1. While the 2018 Mercedes is in storage, it will continue to depreciate.

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1           **II. ARGUMENT**

2           This Court has authority to issue an Interlocutory Order of Sale. “At any time before  
 3 entry of a final forfeiture order, the court, in accordance with Supplemental Rule G(7) of the  
 4 Federal Rules of Civil Procedure, may order the interlocutory sale of property alleged to be  
 5 forfeitable.” Fed. R. Crim. P. 32.2(b)(7).

6           On motion by a party or a person having custody of the property, the court may order  
 7 all or part of the property sold if: (A) the property is perishable or at risk of  
 8 deterioration, decay, or injury by being detained in custody pending the action; (B) the  
 9 expense of keeping the property is excessive or is disproportionate to its fair market  
 10 value; (C) the property is subject to a mortgage or to taxes on which the owner is in  
 11 default; or (D) the court finds other good cause.

12           Supplemental Rule G(7)(b) of the Supplemental Rules for Admiralty or Maritime Claims  
 13 and Asset Forfeiture Actions of the Federal Rules of Civil Procedure (paragraphs  
 14 omitted). Only one of the grounds for interlocutory sale is required since Supplemental  
 15 Rule G(7)(b) is disjunctive. *See Shelter Cove Marina, Ltd. v. M/Y ISABELLA*, No. 3:17-cv-  
 16 01578-GPC-BLM, 2017 WL 5906673, 2 (S.D. Cal. Nov. 30, 2017) (explaining that  
 17 another Supplemental Rule for interlocutory sale with similar language is disjunctive);  
*Cal. Yacht Marina-Chula Vista, LLC v. S/V OPILY*, No. 14-cv-1215-BAS-BGS, 2015 WL  
 1197540, 2 (S.D. Cal. Mar. 16, 2015) (same).

18           The four reasons for the interlocutory sale apply in this case regarding the 2018  
 19 Mercedes: it will deteriorate while the criminal prosecution and forfeiture processes are  
 20 completed; the storage and maintenance fees will continue to accrue; the loan payment is in  
 21 default since Chapon made no car payments, and other good cause: the value of the vehicle  
 22 depreciates over time, and the sooner the vehicle is sold, more net sale proceeds will be  
 23 available. Supplemental Rule G(7)(b); Fed. R. Crim. P. 32.2(b)(7); see *United States v. One*  
*24 Parcel of Real Prop. Described as Lot 41, Berryhill Farm Estates*, 128 F.3d 1386, 1389–90 (10th  
 25 Cir.1997) (explaining the district court orders an interlocutory sale when the property is  
 26 deteriorating and decaying).

27           “A sale must be made by a United States agency that has authority to sell the  
 28 property, by the agency’s contractor, or by any person the court designates.” Supplemental

1 Rule G(7)(b)(ii). In this case, the USMS will sell the property as “governed by 28 U.S.C. §§  
 2 2001, 2002, and 2004, unless all parties, with the court’s approval, agree to the sale, aspects  
 3 of the sale, or different procedures.” Supplemental Rule G(7)(b)(iii).

4 In *United States v. Guzman*, No. 3:08-CR-23-2, 2013 WL 12228400 (M.D. Tenn. Oct.  
 5 7, 2013), the district court found and held:

6 The Government has presented evidence suggesting that the value of the [property]  
 7 continues to decrease with time and, as of last month, was approximately \$16,500.00  
 8 less than the amount the Government had paid for storage and maintenance up to that  
 9 point. Thus, the Court finds that the expense of keeping the [property] is both  
 excessive and disproportionate to its fair market value. Given the apparent continued  
 depreciation in value and rising cost of maintaining the [property], the Court finds an  
 interlocutory sale is the best way to preserve its remaining value.

10 *Id.* at 2 (brackets added); *United States v. Haley*, No. 11-CR-0540-WDQ, 2011 WL 6202787,  
 11 1 (D. Md. Dec. 8, 2011) (explaining “that the Government’s desire to avoid storage costs  
 12 (particularly with respect to the twenty-two automobiles and the tractor trailers) and the risk  
 13 of depreciation (particularly of the computers and other electronic items) constitute “good  
 14 cause” for the interlocutory sale of the personal property …[,]” and the real property to  
 15 avoid liability for accidents and to “avoid falling in arrears on the payment of applicable  
 16 property taxes.”).

17 Without the Interlocutory order of sale, the property cannot be sold until the court  
 18 enters the Final Order of Forfeiture. Fed. R. Crim. P. 32.2(b)(4) and 21 U.S.C. § 853(h). If  
 19 the government waits for the Final Order of Forfeiture, the value of the vehicle will have  
 20 deteriorated and depreciated even further, and the storage and maintenance fees will  
 21 continue to accrue.

22 “The sale proceeds are substitute res subject to forfeiture in place of the property  
 23 that was sold[, and] the United States must maintain them in an interest-bearing account.”  
 24 Supplemental Rule G(7)(b)(iv); *United States v. King*, No. 10 CR. 122 (JGK), 2010 WL  
 25 4739791, 4 (S.D.N.Y. Nov. 12, 2010).

26 After paying the cost and expenses to sell the vehicle and the storage and  
 27 maintenance fees are subtracted, the net sale proceeds will be substituted in lieu of the 2018  
 28 Mercedes. See *United States v. Plunk*, 511 F.3d 918, 922-23 (9th Cir. 2007) (the value of the

1 property is when the property is sold); *United States v. Marshall*, 338 F.3d 990, 993-94 (9th  
2 Cir. 2003) (the property's valuation date is the net sale proceeds.). 21 U.S.C. § 853(g)  
3 ("Any income accruing to or derived from property ordered forfeited under this section  
4 may be used to offset ordinary and necessary expenses to the property which are required  
5 by law, or which are necessary to protect the interests of the United States or third  
6 parties.") and (j); 19 U.S.C. §§ 1609(a) (after deducting expenses, proceeds of sale is the  
7 value of the asset for depositing), 1611 (sale proceeds cover costs or destroy the asset);  
8 1613(a)and (b) (reducing the costs of seizure and sale; sale proceeds are reduced by  
9 payment of all property expenses of the proceedings of forfeiture and sale, including  
10 expenses of seizures maintaining the custody of the property, advertising and sale, and any  
11 additional costs taxed by the court).

12 **III. CONCLUSION**

13 Based on the foregoing reasons, the Court should order the interlocutory sale of the  
14 gray 2018 Mercedes Benz G63 AMG sports utility vehicle held in the name of Karen  
15 Chapon, aka "Karen Hannafious," VIN WDCYC7DH6JX291626 to mitigate further  
16 expenditures.

17 Dated: February 16, 2021.

18 Respectfully submitted,

19 NICHOLAS A. TRUTANICH  
20 United States Attorney

21 /s/ Daniel D. Hollingsworth  
22 DANIEL D. HOLLINGSWORTH  
23 Assistant United States Attorney

24 IT IS SO ORDERED:

25   
26 JAMES C. MAHAN  
27 UNITED STATES DISTRICT JUDGE  
28 DATED: March 19, 2021

## **CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon counsel of record via Electronic Filing on February 16, 2021, and by

Certified Mail Return Receipt and First Class Mail:

Goldfein Attorneys at Law  
Gregory Mgrditchian, Attorney at Law  
140 East Ridgewood Avenue, Suite 415 South Tower  
Paramus, NJ 07652

Daimler Trust, Daimler Title Co., and Mercedes Benz Financial Services, LLC  
14372 Hermitage Parkway  
Fort Worth, TX 76177

/s/ Misty L. Dante  
MISTY L. DANTE  
FSA Contractor Law Clerk

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,

2:20-CR-286-JCM-NJK

11 Plaintiff,

**Index of Exhibits**

12 v.

13 KAREN CHAPON,  
14 aka "Karen Hannafious,"

15 Defendant.

16 Exhibit 1 .....Declaration of Thomas Lydiksen, Special Agent FBI

1 Exhibit 1 – Declaration of Thomas Lydiksen, Special Agent FBI  
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Exhibit 1 – Declaration of Thomas Lydiksen, Special Agent FBI

1 DECLARATION OF THOMAS LYDIKSEN, SPECIAL AGENT  
2 FEDERAL BUREAU OF INVESTIGATION

3 THOMAS LYDIKSEN, Special Agent with the Federal Bureau of Investigation  
4 states as follows:

- 5 1. I am a Special Agent with the Las Vegas Division of The Federal Bureau of  
6 Investigation (FBI). I have been so employed as a Special Agent for  
7 approximately 2 years.
- 8 2. The 2018 Mercedes-Benz G63 AMG bearing VIN WDCYC7DH6JX291626  
9 was taken into FBI custody on August 12, 2020. On September 8, 2020 the  
10 vehicle was relinquished to the custody of the United States Marshals Service  
11 and has remained in their custody to the present date.
- 12 3. This vehicle was purchased with a down payment of \$49,987.73, plus  
13 financing. No payments were made towards the financing of the vehicle, and  
14 Mercedes-Benz Financial Services stated that as of December 2020, the  
15 vehicle had an outstanding balance of \$67,420.89.
- 16 4. When the vehicle was seized in August 2020, it had a National Automobile  
17 Dealers Association (NADA) average retail valuation of \$124,900. On  
18 February 9, 2021, the vehicle had a NADA average retail valuation of  
19 \$107,600.
- 20 5. It costs approximately \$270 per month to store the vehicle.
- 21 6. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the  
22 foregoing is true and correct.

23 Executed on

24 February 9, 2021

25 

26 Thomas Lydiksen  
27 Federal Bureau of Investigation  
28